THE
MADRAS LAW JOURNAL.

I] MAY [1943

A NOTE ON

CHOKKALINGAM *v.* OFFICIAL ASSIGNEE OF MADRAS, (1943) 1 M.L.J. 239 (P.C.).

This is a decision of more than passing interest. It lays down that where a son remains undivided from his father till the death of the latter and is adjudicated insolvent thereafter, then, as between his own creditors and the creditors of the father, the latter will be entitled to be paid in priority before the separate estate of the father is applied to any extent in paying the former but that they (*i.e.*) the father's creditors will not be entitled to any such priority in respect of the joint family estate. In so holding the Privy Council differed from the High Court on the first point and affirmed its view on the second. What precisely was the property administered in the insolvency seems itself to have been the subject of some doubt. On p. 242 their Lordships have observed: "There has arisen in this case much uncertainty and confusion as to what property is being administered by the Official Assignee in the insolvency and in particular whether it includes any property which was the separate property of the father of the insolvents". Lower down, however, it is stated that "the only property with which this appeal can be concerned is the joint family property which on the death of the father devolved by survivorship." Again on p. 245 it is mentioned "the question of the priority in respect of the father's separate property does not arise in the insolvency proceedings at all." In passing, it may be remarked that these last observations might suggest that their Lordships' pronouncement on the question of the application of the father's separate property is really *obiter,* but having regard to the expression of doubt earlier as to the property administered in the insolvency, the conclusion expressed must be deemed to be a definite pronouncement on the question. If the implication underlying their Lordships' observations on the property administered by the Official Assignee be that the separate property of the father inherited by the son cannot vest at all in the Official Assignee till all the father's creditors have been ascertained and paid, it would be opposed to section 17 of the Presidency Towns Insolvency Act. It is not as if the son inherits only that much of the property which remains after payment of the father's debts, because admittedly his simple debts do not form a charge on the estate. Even assuming it is so, the difficulty in ascertaining what portion, if any, of the father's separate property after satisfaction of his debts would come to the sons, can hardly stand in the way of the statutory vesting of such property in the Official Assignee. If, however, the suggestion is that on the facts of the present case no such property was being administered in the son's insolvency, it does not fit in with some of the remarks in the judgment of the High Court

in the case. In *Chokkalingam* v. *Official Assignee*[1] it is pointed out that under the will of the father, the sons (insolvents) were entitled to get practically his entire property and that letters of administration were actually issued in favour of the agent of the Official Assignee. On p. 631 occurs the observation: "The learned Judge . . . came to the conclusion that Chokkalingam Chetti must be placed in the same position as any of the creditors of the insolvents' father in British India in proceeding against the assets whether joint family assets or the separate assets of the father in the hands of the Official Assignee as representing the sons." The reference to the two classes of assets is consistent only with the separate assets of the father also being the subject of administration by the Official Assignee in the son's insolvency. It is on that hypothesis alone that the statement on p. 638: "the question is whether as a matter of law Chokkalingam Chetti is entitled to priority on the ground that he was the father's creditor and was therefore entitled to be paid in preference to the creditors of the sons in the insolvency of the sons from and out of the separate property of the father which devolved on the sons by inheritance, and from and out of the joint family properties which vested in the sons by survivorship"—becomes material. Again it is on that footing only that the direction given by the Judge in insolvency that the applicant shall be at liberty to prove his debt, subject to the limit that it shall not exceed the assets of the joint family and the assets of the deceased which had come into the hands of the sons can be understood as being something more than a mere formula.

Be that as it may, one other matter may also be stated. Adverting to any possible priority existing in Hindu law in favour of the father's creditor in circumstances like those in the present case, Lord Russell of Killowen has remarked: *"Even if such a priority had existed under the Hindu law, it would have had to yield to any statutory provision inconsistent therewith; and in the present case the provisions of the Presidency Towns Insolvency Act afford a complete answer to the appellant's claim.* . . . The appellant is . . . subject to section 49 of the Act, which after providing for certain priorities in the payment of debts enacts by sub-section (5) that "subject to the provisions of this Act all debts proved in insolvency shall be paid rateably according to the amounts of such debts respectively and without any preference." Likewise in *Sat Narain* v. *Behari Lall*[2] apropos the question what is the property which vests in the Official Assignee on the insolvency of a father, the Privy Council observed that the *"question to be decided in the appeal must be decided on the wording of the Presidency Towns Insolvency Act and on that Act alone."* In *Thumbalam Gooty Thimmiah* v. *The Official Receiver*[3], the same view is expressed, perhaps more broadly, by Abdur Rahman, J., when he remarked that the provisions of the Insolvency Acts *"must be taken to be exhaustive so far as they go and there is no room for the contention that the doctrines of personal law must be read in conjunction with the provisions of these Acts so as to extend or limit their operation."* The view that the Insolvency Acts are exhaustive and the principles of Hindu law or any other system of law could not be accommodated into them or permitted to control or influence their interpretation has, it is true the merit of severe logic. The position is not however so simple. In *Sat Narain* v. *Sri Kishen Das*[4], with reference to the argument, that if under section 52 (2) (*b*) the capacity of a father to sell joint family property for an antecedent debt of his, not immoral or illegal, were on his insolvency to vest in the Official Assignee it would be tantamount to conferring a benefit on a limited class of creditors of the father, who however are certainly not among those whose debts are expressly given priority by section 49, and hence a distribution of the proceeds of the sale in the exercise of the power among such a limited class would be in contravention of section 49 (5), Lord Thankerton observed: "If, as their Lordships hold, section 52 (2) (*b*) entitles the Official

1. (1940) 2 M.L.J. 621 (626).
2. (1924) I.L.R. 6 Lah. 1.
3. (1939) 1 M.L.J. 158.
4. (1936) 71 M.L.J. 812: L.R. 63 I.A. 384: I.L.R. 17 Lah. 644 (P.C.).

Assignee to exercise the power in question it is clear that such power must be exercised subject to its limitations, and the provisions of section 49 (5) do not apply." This remark recognises that in construing the Insolvency Acts the principles of the personal law of the insolvent cannot altogether be ignored and that apart from the priorities expressly enunciated in the Act, priorities recognised by the personal law may have to be taken note of by implication. Again, if it be that section 49 abrogates altogether any priority recognised by Hindu law in favour of the father's creditor as against the son's creditor, then there will hardly be any warrant for treating the separate property of the father coming to the son by inheritance as being outside the section while treating joint family property as affected by it, as has been done in the present case. The criticism gains point in view of the principle underlying section 53, Civil Procedure Code, that for the purposes of sections 50 and 52, property in the hands of a son liable under Hindu law for the payment of the debt of a deceased ancestor, *i.e.*, joint family property, shall be deemed to be the property of the deceased which has come into the hands of the son. The fact that sections 50, 52 and 53 refer to the debt having resulted in a decree against the father before his death can hardly affect the question.

Turning next to the question of priorities, "the whole jurisdiction of Courts of Equity in the administration of assets is founded on the principle that the executor or administrator who has the property in his hands is bound to apply that property to the payment of debts and legacies and to apply the surplus according to the will of the testator, or in case of intestacy according to the statute of distributions[1]". The heir takes a beneficial interest in the descended assets of the ancestor only to the extent that the same are not required for payment of the debts of the ancestor, in due course of administration; and, the rights of simple contract creditors of an ancestor as against the descended estates cannot be defeated by judgments entered up against the heir for his personal debts, *Kinderley* v. *Jervis*[2]. There is, as it were, an "equitable lien" upon the assets "but not so that a *bona fide* purchaser of the lands from the heir or the devisee is bound to see to the application of the purchase money as he would be in the case of a particular mortgage on any portion of the lands themselves."[2] Among Mussalmans, the same principle governs. As pointed out by Macnaghten[3] "debts are claimable before legacies and legacies must be paid before the inheritance is distributed." The Al Sirajiyyah states: "There belong to the property of a person deceased four successive duties to be performed by the Magistrate: first, his funeral ceremonies and burial without superfluity of expense, yet without deficiency; next, the discharge of his just debts from the whole of his remaining effects; then the payment of his legacies out of a third of what remains after his debts are paid; and lastly, the distribution of the residue among his successors." Applying these principles it has been held by the Allahabad High Court in the case of Mussalmans, that an unsecured creditor of a deceased, though he has not a specific lien or charge upon the general assets left by the deceased, has a "general charge" on the assets so left partaking of the character of an "equitable lien" such as has been recognised in *Kinderley* v. *Jervis*[2]; that where the estate of a deceased devolves upon a person who is subsequently declared insolvent, the creditors of the insolvent cannot seize the property in competition with the creditors of the deceased; and that the deceased's creditor should be paid in priority to the heir's creditor, *Bhola Nath* v. *Maqbul-un-nissa*[4] *Shankar Lal* v. *Mohammad Ismail*[5]. The decisions to the contrary in *Lakshmi Narasimham* v. *Jagannadha Rao*[6] and *Nainar Rowthen* v. *Kuppai Pichai Rowther*[7] do not seem to have taken note of the Islamic authorities bearing on the point.

Hindu law regards a debt as a sin and non-payment of it as liable to affect one's after-life as well. It was that approach that led to the imposition of a

1. Story's Equity Jurisprudence, 3rd Eng. Edition, p. 226, para. 532.
2. (1856) 22 Beav. 1: 52 E.R. 1007.
3. Muhammadan Law, Ch. I., r. 5.
4. (1903) I.L.R. 26 All. 28.
5. A.I.R. 1930 All. 552.
6. (1915) 30 I.C. 256.
7. A.I.R. 1929 Mad. 609.

pious duty on the son to pay his father's undischarged debts even if there were no property coming to him from the father. It will be a *fortiori* where he has taken such property. ऋक्थभाजि ऋणं प्रतिकुर्युः ।—the heirs shall pay the debts, is the text of Gautama[1]. According to Narada[2] "what is left (of the father's property) after paying the father's debts, shall be divided by the brothers, in order that their father may not continue a debtor." Brihaspati expressly declares that such debts shall have priority over the son's debts.

पित्र्यमेवाग्रतो देयं पश्चादात्मीयमेव च ।
तयोः पैतामहं पूर्वं देयमेवमृणं सदा ॥

"If the father is no longer alive (the debt must be paid) by his sons. The father's debts must be paid first of all, and after that a man's own debt; but a debt contracted by the paternal grandfather must always be paid before these two even".[3] These texts are illustrative of the policy of Hindu law. In regard to the separate property left by a father it is pointed out that such property should be applied to the payment of the father's debts before it can be effectively divided among the sons, *Tara Chand* v. *Reeb Ram*[4], though the unsecured creditors have no charge or lien on the inheritance, *Veerasokkaraju* v. *Papiah*[5] and the property cannot be regarded as so hypothecated for his debts as to prevent the heirs from dealing with it in favour of third persons acting *bona fide, Unnopoorne Dassee* v. *Gunga Narain Paul*[6], *Lakshmi Narasimham* v. *Jagannadha Row*[7]. That though an unsecured creditor of a deceased has no charge or lien on the inheritance and cannot follow it in the hands of a third person, yet he can claim priority as against the creditors of the heir is supported by the Shastras and seems to be in accord with the principles of jurisprudence, British, American and Islamic. In the instant decision, Lord Russell of Killowen has observed: "It seems clear to their Lordships that before any of the father's separate property can be applied in payment of any of the son's creditors in the insolvency proceedings, all creditors of the father must first have their claims satisfied thereout. All that can vest in the Official Assignee under section 17 of the Presidency Towns Insolvency Act is the property of the insolvents and therefore as regards separate property of the father all that can be properly dealt with in the insolvency proceedings for the benefit of the creditors of the insolvents is the interest of the insolvents which will remain after the father's debts have been ascertained and paid." While this statement is in conformity with the principles of general jurisprudence it allows at the same time by implication an interpretation of the Insolvency Act agreeably to the principles outside it.

Is the rule to be different in regard to joint family property devolving on the sons by survivorship? In the decision under notice, the Privy Council has remarked: "Although the question must frequently have arisen as a matter of great practical importance, it is strange, that if it existed, no case is found in the books establishing such priority" in favour of the father's creditors. Can it be that the existence of such priority had not been doubted? The Privy Council has referred, presumably with approval, to the observations of Abdur Rahman, J., in *Thumbalam Gooty Thimmiah* v. *The Official Receiver*[8] that if a father's debts have priority a son's creditor could not obtain payment out of the son's undivided share but would have to wait until all the father's creditors had been paid, that is, in other words, a son's creditor would be driven to enforce his claim in some kind of administration suit in which the father's creditors would have to be ascertained and their debts paid. Has not this very course been suggested by the Privy Council in the instant decision as one that might possibly have to be pursued on behalf

1. XII, 40.
2. XIII, 32.
3. Brihaspati, XI, 48.
4. (1866) 3 M.H.C.R. 177.
5. (1902) 13 M.L.J. 258: I.L.R. 26 Mad. 792.
6. (1865) 2 W.R. 296.
7. (1915) 30 I.C. 256.
8. (1939) 1 M.L.J. 158.

of the son's creditors to reach the separate property left by the father? If such a course is necessary and unobjectionable regarding the separate property of the father, why may it not be pursued in regard to joint family property as well?. Again if according to the Hindu Shastras, payment of the father's debts by the son is an obligation arising independently of any assets left by the father, why should it from the point of view of that law make any difference if the assets left are of one kind rather than another? Their Lordships have referred to the non-recognition of any such priority by the provisions of the Indian Succession Act as indicating that the father's creditors cannot have any priority over the son's creditors in respect of joint family property. The Indian Succession Act has not in any manner enlarged the category of heritable property but deals only with the separate property of a person, *Ghosal* v. *Ghosal*[1]; and hence it may be that it has not adverted to priority concerning joint family property. On the other hand section 53, Civil Procedure Code, has expressly enacted that in regard to the execution of a decree obtained against the father, even the joint family property in the hands of the son would be deemed to be assets of the deceased. It has also been recognised that in a suit for partition while the father is alive, the Court should recognise in its decree the existence of the father's debts as are payable out of the joint estate and "make the necessary provision for their liquidation before directing partition by metes and bounds", *Venku Reddi* v. *Venku Reddi*[2]. Such a direction was considered by the Privy Council to have been rightly made and according to their Lordships it makes no difference if the father's debts had ripened into a decree or not at the time of the partition, see *Sat Narain* v. *Sri Kishen Das*[3]. Apropos this point Lord Thankerton remarked: "The appellants maintained that the pious obligation of the sons was an obligation not to object to the alienation of the joint estate by the father for his antecedent debts . . . but that these debts were not a liability of the joint estate, for which provision was required to be made before partition. . . . *There can be no doubt that it is a liability of the joint estate,* and . . . it follows that it is right to make provision for discharge of this liability on partition of the joint estate. It was decided in *Bawan Das* v. *Chine*[4]; reference may also be made to *Venku Reddi* v. *Venku Reddi*[2]." If therefore the debts of the father are a "liability of the joint estate" and must be discharged before that estate can become the subject of several or exclusive enjoyment by the sons may it not be argued that on the death of the father, the creditors could still insist on their debts being satisfied before the property is made available to the son's creditors in the right of the son, in his insolvency? Such a result may receive support from the observations of Lord Hobhouse in *Nanomi Babuasin* v. *Modhun Mohun*[5] that "the son cannot set up his rights . . . against his (father's) creditors' remedies for their debts". However the recognition *simpliciter* of the priority in favour of the father's creditors as regards the joint family estate might involve far-reaching consequences. For example, a diligent creditor of an undivided son who has attached his share in the joint family property would *ex hypothesi* have to be postponed till the father's creditors are ascertained and his debts paid off. Or, take the case where two different decrees for money against a person are passed one against him personally and the other against him as the heir of his father and attachments in execution are taken out in both the decrees and the property of the judgment-debtor is sold in execution of the decree held by the son's creditor. If it be that the father's creditor should have priority, then the other creditor cannot claim rateable payment, a result opposed to the ruling in *Vadlamani Venkatesam* v. *Mangipudi Viswanadham*[6]. These and similar problems may have to be taken note of.

1. (1906) I.L.R. 31 Bom. 25.
2. (1926) 52 M.L.J. 387: I.L.R. 50 Mad. 535 (539) (F.B.).
3. (1936) 71 M.L.J. 812: L.R. 63 I.A. 384: I.L.R. 17 Lah. 644 (656) (P.C.).
4. (1921) I.L.R. 44 All. 316.
5. (1885) L.R. 13 I.A. 1: I.L.R. 13 Cal. 21 (P.C.).
6. (1917) M.W.N. 859.

It is therefore submitted with respect, that the ruling in the present case that the father's creditors cannot claim any priority over the son's creditors in the son's insolvency as against the joint family estate may possibly require fuller and further elucidation.

A question of some nicety which may arise on the view of their Lordships that the separate property of the father should first be applied in satisfaction of his debts and that the residue alone, if any, will be available to the son's creditors, is whether, when the heir has paid the father's creditors up to the value of the assets inherited by him from his private funds and there remain some more creditors unsatisfied, it is open to the latter to claim that there is a duty on the heir to have paid rateably and that where the duty has not been so discharged it should be open to them to proceed against the inherited property in the hands of the heir. The question came up for decision in an early case, *Veerasokkaraju* v. *Pappiah*[1], where a son who had inherited his mother's property redeemed with his own funds certain jewels pledged by his mother and paid off certain of her creditors, and thereafter yet another creditor sought to recover the amount due to him by attachment and sale of the jewels. Subrahmanya Aiyar and Davies, JJ., held that there is no analogy whatever between the case of an executor or administrator who is governed by the special provisions of the Indian Succession Act and a legal representative under the Hindu law with reference to the distribution of the assets rateably among the creditors and that when the legal representative has made payments to the full value of the property that has come into his hands, creditors cannot proceed against such property on the mere ground that the representative is still in the possession of property originally belonging to the deceased. According to the learned Judges in cases like this the thing to be considered is the real effect of what has been done and not whether the property which originally belonged to the deceased is still with the representative. This view has been approved in *Haji Saboo Sidick* v. *Ally Mahomed*[2]. In the present case however, the Privy Council has suggested that proceedings in the nature of an administration action may have to be brought to ascertain what the separate property of the father is and whether it has been properly applied for the satisfaction of his debts in the first instance. It may be argued that this coupled with the reference to sections 320 to 323 of the Indian Succession Act defining priorities, that govern in the administration of the estate of a deceased person and the express provision in section 325 that debts should be paid before legacies along with the illustration (*a*) to section 94 in the Trusts Act that where the legacies are distributed without the whole of the debts of the deceased being fully paid the legatees must hold for the benefit of the creditors to the extent necessary to satisfy their just demands the assets so distributed, suggests that the principle of rateable application by an executor or administrator of the estate of the deceased can be imported even to a case of an heir inheriting property under his personal law. In the absence, however, of a more definite pronouncement, it may not be permissible to treat the decision in the present case as having rendered doubtful the principles laid down in *Veerasokkaraju* v. *Pappiah*[1] and *Haji Saboo Sidick* v. *Ally Mahomed*[2].

JOTTINGS AND CUTTINGS.

Christianity and the Law.—Mr. Justice Birkett recently gave the closing address at a series of conferences held at Carr's Lane Church, Birmingham, on "Christianity and Life". Mr. Justice Birkett said that the conferences at Carr's Lane had provided a valuable survey of civic and national life. It was popularly supposed that Christianity was part and parcel of national life, but analysis showed that that statement required considerable qualification. In practice, the domain of law and morality closely adjoined. In many matters law had nothing to do with morality, but in every part of the land there was an instinctive desire, deep in the minds of the people, to associate law with morality. The common phrase: "It may be the law, but it is not justice," exemplified that. There should be, he said, a wider knowledge of the general principles of law, as part of the educational system. All

1. (1902) 13 M.L.J. 258: I.L.R. 26 Mad. 792.
2. (1904) I.L.R. 30 Bom. 270.

personal conduct from morning to night in any ordinary day was governed by the general body of the law. It was the duty of citizens to insist at all times on fearless and independent administration of the law. Lawyers in all ages had been the subject of much invective and criticism, but they had their defenders, and it was right that there should be a body of men to whom citizens could turn for guidance and for the attainment of justice. Lawyers should, therefore, be men of the highest character. In the sphere of the criminal law it was important to see that the laws to be administered should be just, and plainly seen to be so in their administration.—*S.J., 1942, p. 283.*

27th October.—Lord Wrenbury died at the age of ninety on the 27th October, 1935. He had been a figure in the legal world since 1872, when as Henry Buckley, three years called to the Bar, he published his classic treatise on the Companies Act, the book which first brought him business, then professional fame, and eventually led to his appointment to the Bench. His style of advocacy suited the sort of practice which came to him and he won a commanding place as an equity leader in a period when the Chancery Division was being called on to decide fundamental points of company law. He became a Judge in 1900 and at once distinguished himself by the promptitude and clarity of his decisions. In 1906 he was promoted to the Court of Appeal, and when he retired in 1915 he received a peerage.—*S.J., 1942, p.320.*

Legal Punctuation.—After all, some of the greatest literature in the world was written without punctuation, and the greatest genius of English literature was fully conscious of the dangers of punctuation in the hands of all but the highly skilled, for, as Quince the carpenter said:

"All for your delight we are not here. That you should here repent you the actors are at hand."

Here, at any rate, is a statement which might have caused litigation, especially if the actors had been professionals, or even if there had been only one professional actor, as one sometimes finds in amateur dramatic societies. Pope, too, despised commas and points, and derided the critics for that:

"Commas and points they set exactly right, And 'twere a sin to rob them of their mite."

If, therefore, lawyers sin in this respect, they do so in good company.—*S.J., 1942, p. 351.*

24th November.—Among the criminals hanged at Tyburn on the 24th November, 1740, was William Duell, condemned for murder. His body was taken to Surgeons Hall to be anatomised, but after it had been stripped and laid on the board, one of the servants, while washing it, noticed that there were signs of life. The breath came quicker and quicker and one of the surgeons let some ounces of blood from him. In two hours Duell was able to sit up in a chair, and on the same evening he was sent back to Newgate. His sentence was commuted to transportation.—*S.J., 1942, p. 356.*

3rd January.—James Fitzjames Stephen was called to the Bar in 1854. The technical side of the law had little attraction for him but the general principles of jurisprudence interested him profoundly. He had no professional connections, and whilst business came slowly he earned money by journalism. Still he advanced, and in 1859 became Recorder of Newark. In 1863 he published his "General View of the Criminal Law". The subject had long interested him, and the germ of the book had appeared in the "Cambridge Essays" for 1857. He took silk in 1868, and in the following year accepted with some hesitation the position of legal member of council in India. He was away for two and a half years carrying out the work of codification of the law there, and in that time he pushed the process to within measurable distance of completion. After his return he was much employed on attempts to codify the law of England. An Evidence Bill and a Homicide Bill to which he devoted a great deal of work never passed into law. In 1877 he published a digest of criminal law, and he was instructed to convert it into a code, but the Bill he prepared was never brought before Parliament. When he undertook the task he had been virtually promised a judgeship, and on the 3rd January, 1879, he was appointed a Justice of the High Courts.—*S.J., 1943, p. 5.*

New Year Honours.—We offer our respectful congratulations to Sir William Holdsworth, K.C., D.C.L., on his attaining the Order of Merit. Those many who consider themselves his pupils still look to him with reverence and affection, and recall the impression of true greatness which he has always conveyed. The honour is the more appropriate as it occurs at the end of a year which marked the twentieth anniversary of his accession to the Vinerian Professorship of English law at the University of Oxford. Solicitors will feel particular pride in Sir William's achievements, as he is himself a solicitor's son. His brilliant academic career, with double first class honours in History and Law, and the Barstow Scholarship, foreshadowed his future fame. He is best known to lawyers for his monumental

"History of English Law," but quite apart from his indirect influence as a teacher on the modern development of the law, he exercised no small influence on its direction as a member of the Committee on Ministers' Powers in 1930-32.—*S.J., 1943, p. 9.*

Criminal Law and the future.—The punishment of war criminals and the reconstitution of justice in the occupied territories are tremendous problems which will have to be solved after the war. It is generally agreed that if any substantial progress is to be made towards these ends a beginning must be made now, if only of an exploratory nature. Such a beginning was made in November, 1941, by the establishment of the International Commission for Penal Reconstruction and Development. Its first meeting was held in the Council Room of the University of Cambridge on 27th February, 1942, and was attended by the delegates of ten allied countries: Belgium, Czechoslovakia, Fighting France, Great Britain, Greece, Holland, Luxembourg, Norway, Poland and Yugoslavia. Mr. Terje Wold, the Norwegian Minister of Justice, contributed an address on the 1942 enactment for the defence of the Norwegian State. After emphasising that law is the basis on which the Norwegian community is founded, the Minister pointed out that quislings and traitors in every European country consist of a considerable number of criminals whom it will be necessary to try before special tribunals and for whom adequate criminal laws dealing with their punishment must be devised. The very clear definition in Norwegian criminal law of high treason namely, rendering the enemy assistance by either word or deed, gives sufficient title for punishment after the war of every Norwegian citizen whose actions or behaviour, during the occupation, constituted, in the opinion of the people, dangerous and punishable offences against the State. During the military occupation of a country, dealings with the enemy are inevitable, the life of the country must go on, and it may not always prove easy to define the exact borderline between legal and illegal dealings with the enemy. That was the purpose of the new Royal Norwegian Decree of 22nd January, 1942, which provides that every member of the quisling party in Norway is to be considered a traitor, as during and since the German onslaught they had provided conclusive evidence that they were traitors who collaborated openly with the enemy. The organisation of traitors into parties, added the Minister, constitutes a greater danger to the community than if traitors act only as individuals. The new decree would prevent members of that party from attempting to defend themselves by saying that they were not aware that by joining the party they were acting treasonably. However, though there were only about 30,000 members of the quisling party in Norway, it would be impracticable and inadequate to sentence all these people to long terms of imprisonment; nor would all of them merit capital punishment. The recent decree, therefore, provided for a new method of punishment called "Loss of Public Trust," and all members of the Nasjonal Samling would suffer this punishment, for life or for a fixed period of years. It includes loss of any public office which the guilty person may hold, loss of the right of voting in public matters, loss of the right of serving in the armed forces of the State, loss of the right to carry on any trade, profession or business for which public authorisation or approval is required, loss of the right to hold any position, whether paid or unpaid, as head or leading position in companies, friendly societies, financial institutions, associations, or other organisations, and loss of the right to obtain appointment in such positions or services. Such persons may also be sentenced to imprisonment and death under the criminal code. Legislation such as this is, it is true, of a pioneering nature, but in view of the enormity of the crimes against their country which the quislings have committed few will doubt that something of the sort will be urgently needed, and it may well form a model law for other States to follow.—*S.J., 1943, p. 9.*

BOOK REVIEW.

LECTURES ON COMPANY LAW by Shantilal M. Shah, Barrister-at-Law, with a Foreword by Sir Patrick Blackwell, 4th edition, 424 pages, published by N. M. Tripathi & Co., Bombay. Price Rs. 5.

That the greatest Empire of modern times resulted from the activities of a company makes evident the wide range over which companies operated in the past and the great achievements they were capable of. Regulated and Joint Stock Companies, Incorporated and un-Incorporated Companies, Companies with unlimited liability and those with limited liability—all these constitute landmarks in the evolution of modern company law. The history of that law, the measures adopted from time to time to control and regulate the working of companies, the provisions designed to prevent abuse and fraud and to safeguard the public against exploitation, etc., form a fascinating subject of study. The growth of trade and commerce and the replacement of agriculture by industries as the fulcrum of social life have brought to the fore the great part which companies play in modern life and along with it the necessity for a knowledge of company law. Mr. Shah has in the present book provided an outline of that law as it obtains in India, in 15 lectures. The lectures make interesting reading, are easy to follow and cover the entire ground. Difficult points are helpfully elucidated and the citation of cases, English and Indian, is quite adequate without being burdensome. The book is sure to appeal alike to the layman and to the student of law. We heartily welcome the publication.